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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 9th January, 1976:—

### BILL No. 10 OF 1976

*A Bill further to amend the Imports and Exports (Control) Act, 1947*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Imports and Exports (Control) Amendment Act, 1976.

18 of 1947.

Substitution of new section for section 2.

2. For section 2 of the Imports and Exports (Control) Act, 1947 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Definitions.

'2. In this Act, unless the context otherwise requires,—

(a) "adjudicating authority" means the authority specified in, or under, section 4K;

(b) "Appellate authority" means the Appellate authority referred to in section 4M;

(c) "Chief Controller" means the Chief Controller of Imports and Exports;

(d) "control order" means a control order made, or deemed to have been made, under this Act;

(*e*) "customs station" has the meaning assigned to it in the Customs Act, 1962; 52 of 1962.

(*f*) "Deputy Chief Controller" means a Deputy Chief Controller of Imports and Exports;

(*g*) "import" and "export" mean, respectively, bringing into, and taking out of, India by sea, land or air;

(*h*) "letter of authority" means a letter authorising the licensee to permit another person, named in the said letter, to import goods against the licence granted to the licensee;

(*i*) "licence" means a licence granted, and includes a customs clearance permit issued, under any control order;

(*j*) "prescribed" means prescribed by rules made under this Act;

(*k*) "recognised agency" means an agency to which the functions of distribution of imported goods have been assigned by the Chief Controller.'.

Insertion of new sections 4B to 4P.

3. After section 4A of the principal Act, the following sections shall be inserted, namely:—

Power to enter and inspect.

**'4B. Any person authorised in writing in this behalf by the Chief Controller or any officer serving under him, not being an officer below the rank of a Deputy Chief Controller (hereafter in this Act called the "authorised person"), may enter, at any reasonable time, any premises in which—**

**(i) any imported goods or materials which are liable to confiscation under this Act, or**

**(ii) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act,**

**are suspected to have been kept or concealed, and inspect such imported goods, materials, books of account, other documents or things and may take such notes or extracts from such books of account or other documents as he may think fit.**

Power to search.

**4C. If the authorised person has any reason to believe that—**

**(i) any imported goods or materials which are liable to confiscation under this Act, or**

**(ii) any books of account or other documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.**

**are secreted in any place, he may enter into and search such place or premises for such imported goods, materials, books of account, other documents or things.**

Power to seize imported goods or materials.

**4D. (1) If the authorised person has any reason to believe that any imported goods or materials are liable to confiscation under this Act, he may seize such goods or materials together with the package, covering or receptacle, if any in which such goods or materials are found, and where such goods or materials are found to have been**

**mixed with any other goods or materials, he may seize such goods or materials together with the goods or materials with which they are so mixed:**

Provided that where it is not practicable to seize any such goods or materials, the authorised person may serve on the owner of the goods or materials an order that he shall not remove, part with or otherwise deal with, the goods or materials except with the previous permission of such authorised person.

(2) Where any goods or materials are seized under sub-section (1) and no notice in respect thereof is given under section 4L within six months of the seizure of the goods or materials, the goods or materials shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Chief Controller by a further period not exceeding six months.

(3) The authorised person may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of the authorised person.

(5) If any person legally entitled to the documents or other things seized under sub-section (3) objects, for any reason, to the retention by the authorised person of the documents or things, he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the documents or things.

(6) On receipt of an application under sub-section (5), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it may think fit.

(7) Where any document—

(a) is produced or furnished by any person or has been seized from the custody or control of any person under this Act or any other law for the time being in force, or

(b) has been received from any place outside India (duly authenticated by such authority or person and in such manner as may be prescribed) in the course of the investigation of any offence alleged to have been committed by any person against this Act,

and such document is tendered in evidence against the person by whom it is produced or from whom it was seized or against such person and any other person who is jointly tried, or proceeded against, with him, the court, or, as the case may be, the adjudicating authority shall, notwithstanding anything to the contrary contained in any other law for the time being in force,—

(i) presume, unless the contrary is proved, that the signature and every other part of such document which purports to

be in the handwriting of any particular person or which the court or the adjudicating authority may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is under that person's handwriting, and, in the case of a document executed or attested, it was executed or attested by the person by whom it purports to have been so executed or attested;

(*ii*) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Power to stop and seize conveyances.

**4E. Any authorised person may, if he has any reason to suspect that any conveyance or animal is being or is about to be, used for the transportation of any imported goods or materials which are liable to confiscation under this Act and that by such transportation any provision of this Act has been, is being, or is about to be, contravened, at any time stop such conveyance or animal or, in the case of an aircraft, compel it to land, and**

**(a) rummage and search the conveyance or any part thereof,**

**(b) examine and search any goods or materials in the conveyance or on the animal,**

**(c) if it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it and where such means fail, the conveyance or animal may be fired upon,**

**and where he is satisfied that it is necessary so to do to prevent the contravention of any provision of this Act or of any control order or condition of any licence or letter of authority, he may seize such conveyance or animal.**

*Explanation.*—Any reference in this section to a conveyance shall, unless the context otherwise requires, be construed as including a reference to an aircraft, vehicle or vessel.

Search and seizure to be made in accordance with the Code of Criminal Procedure, 1973.

4F. The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures, shall, so far as may be, apply to every search or seizure made under this Act. 2 of 1974.

Confiscation.

4G. Any imported goods or materials in respect of which—

(*a*) any condition of the licence or letter of authority, under which they were imported, relating to the utilisation or distribution of such goods or materials, or

(*b*) any condition relating to the utilisation or distribution of such goods or materials subject to which they were received from, or through, a recognised agency, or

(c) any direction given under a control order with regard to the sale of such goods or materials,

has been, is being, or is attempted to be, contravened, shall, together with any package, covering or receptacle in which such goods are found, be liable to confiscation, and, where such goods or materials are so mixed with any other goods or materials that they cannot be readily separated, such other goods or materials shall also be liable to confiscation:

Provided that where it is established to the satisfaction of the adjudicating authority that any goods or materials, which are liable to confiscation under this Act, had been imported for personal use, and not for any trade or industry, and that they belong to a person other than the person who has, by any act or omission, rendered them liable to confiscation, and such act or omission was without the knowledge or connivance of the person to whom they belong, such goods or materials shall not be ordered to be confiscated; but such other action as is authorised by this Act may be taken against the person who has, by such act or omission, rendered such goods or materials liable to confiscation.

Confiscation of conveyance.

4H. Any conveyance or animal which has been, is being, or is attempted to be, used for the transport of any imported goods or materials which are liable to confiscation under this Act, shall be liable to confiscation unless the owner of the conveyance or animal proves that it was, is being, or is about to be, so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use:

Provided that in the case of a conveyance or animal used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay, in lieu of confiscation of the conveyance or animal, a fine not exceeding the value of the imported goods or materials which have been, are being, or attempted to be, transported by such conveyance.

Liability to penalty.

4-I. (*1*) Any person who,—

(*a*) in relation to any goods or materials which have been imported under any licence or letter of authority, uses or utilises such goods or materials otherwise than in accordance with the conditions of such licence or letter of authority; or

(*b*) being a person to whom any imported goods or materials have been delivered by a recognised agency, uses or utilises such goods or materials or causes them to be used or utilised, for any purpose other than the purpose for which they were delivered to him; or

(*c*) having made a declaration for the purpose of obtaining—

(*i*) a licence or letter of authority to import any goods or materials, or

(*ii*) any amendment of such licence or letter of authority, or

(*iii*) allotment of any imported goods or materials,

is found to have made in such declaration, any statement which is incorrect or false in material particulars; or

(*d*) acquires, sells or otherwise parts with, or agrees to acquire, sell or otherwise part with, any imported goods or materials in contravention of the conditions of any licence or letter of authority in pursuance of which such goods or materials had been imported; or

(*e*) acquires, sells or otherwise parts with, or agrees to acquire, sell or otherwise part with, any imported goods or materials in contravention of the terms of any allotment made by any recognised agency; or

(*f*) contravenes any direction given under a control order with regard to the sale of goods or materials which have been imported under any licence or letter of authority or which have been received from, or through, a recognised agency,

shall be liable to a penalty not exceeding five times the value of the goods or materials, or one thousand rupees, whichever is more, whether or not such goods or materials have been confiscated or are available for confiscation.

*Explanation.*—For the purposes of this section, "value" has the meaning assigned to it in sub-section (*1*) of section 14 of the Customs Act, 1962. 52 of 1962

(*2*) If any person abets the commission of any act or omission, which act or omission would render any person liable to a penalty under sub-section (*1*), or attempts to commit any act aforesaid, the person so abetting or attempting shall be liable to a penalty not exceeding five times the value of the goods or materials in respect of which such abetment or attempt has been made, or one thousand rupees, whichever is more, whether or not such goods have been confiscated or are available for confiscation.

(*3*) A penalty imposed under sub-section (*1*) or sub-section (*2*) may, if it is not paid, be recovered as an arrear of land revenue:

Provided that the adjudicating authority may, by order, attach any money belonging to, or owed to, the person on whom any penalty has been imposed under sub-section (*1*) or sub-section (*2*), and such attachment shall be made in the same manner in which an attachment is made by a civil court.

**Confiscation or penalty not to interfere with other punishments.**

4J. No confiscation made or penalty imposed under this Act shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

Adjudication.

**4K. Any confiscation may be adjudged or penalty may be imposed under this Act,—**

**(a) by the Chief Controller, or, where he so directs, by a general or special order, by the Additional Chief Controller;**

**(b) subject to such limits as may be specified in this behalf, by such other officer not below the rank of a Deputy Chief Controller, as the Central Government may, by notification in the Official Gazette, authorise in this behalf.**

Giving of opportunity to the owner of goods, etc.

4L. No order of adjudication of confiscation or imposing a penalty shall be made unless the owner of the goods, materials, conveyance or animal, or other person concerned, is given a notice in writing—

(*i*) informing him of the grounds on which it is proposed to confiscate such goods, materials, conveyance or animal or to impose a penalty;

(*ii*) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the confiscation or imposition of penalty mentioned therein, and, if he so desires, of being heard in the matter.

Appeal.

**4M. (*1*) Any person aggrieved by any decision or order made under this Act may prefer an appeal,—**

**(*a*) where the decision or order has been made by the Chief Controller or Additional Chief Controller, to the Central Government;**

**(*b*) where the decision or order has been made by any officer below the rank of the Additional Chief Controller, to the Chief Controller or where he so directs, to the Additional Chief Controller,**

**within a period of forty-five days from the date on which the order is served on such person:**

Provided that the Appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the aforesaid period of forty-five days, allow such appeal to be preferred within a further period of forty-five days:

Provided further that in the case of an appeal against an order imposing a penalty, no such appeal shall be entertained unless the amount of the penalty has been deposited by the appellant:

Provided also that, where the Appellate authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

(2) The Appellate authority may, after giving to the appellant a reasonable opportunity of being heard, if he so desires, and after making such further inquiries, if any, as it may consider necessary, pass such orders as it thinks fit, confirming, modifying or reversing the decision or order appealed against, or may send back the case, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing or imposing a penalty or confiscating goods or materials of a greater value shall not be made under this section unless the appellant has had an opportunity of making a representation, and, if he so desires, of being heard in his defence.

Powers of revision of the Chief Controller.

4N. The Chief Controller may, on his own motion or otherwise, call for and examine the records of any proceeding in which an order of adjudication of confiscation or imposing any penalty has been made by any officer subordinate to him and against which no appeal has been preferred, for the purpose of satisfying himself as to the correctness, legality or propriety of such order or decision and pass such orders thereon as he may think fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(*a*) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(*b*) has been given a reasonable opportunity of making representation and, if he so desires, of being heard, in his defence.

Power of adjudicating and other authorities.

4-O. (*1*) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of witnesses;

(*b*) requiring the discovery and production of any document;

(*c*) requisitioning any public record or copy thereof from any court or office;

(*d*) receiving evidence on affidavits; and

(*e*) issuing commissions for the examination of witnesses or documents.

(2) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973. 2 of 1974.

(3) Every authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

Continuance of proceedings in the event of death or insolvency.

4P. (1) Where a penalty has been imposed by the adjudicating authority and—

(a) no appeal against the order imposing such penalty has been preferred to the Appellate authority and the person entitled to file such appeal dies or is adjudicated an insolvent before the expiry of the period within which the appeal can be preferred, or

(b) an appeal has been preferred to the Appellate authority against the order imposing such penalty but the appellant dies or is adjudicated an insolvent during the pendency of the appeal,

then, it shall be lawful for the legal representatives of such person or the Official Assignee or the Official Receiver, as the case may be, to prefer an appeal to the Appellate authority, or, as the case may be, to continue the appeal before the Appellate authority, in place of such person and the provisions of section 4M shall, so far as may be, apply or continue to apply to such appeal.

(2) The powers of the Official Assignee or the Official Receiver under sub-section (1) shall be exercised by him subject to the provisions of the Presidency Towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, as the case may be.'.

3 of 1909.
5 of 1920.

Amendment of section 5

4. In section 5 of the principal Act,—

(i) after the words "any condition of a licence granted under any such order", the words "or any authority under which imported goods were received from or through a recognised agency" shall be inserted;

(ii) for the words "be punishable with imprisonment for a term which may extend to two years and also with fine:", the words—

"be punishable,—

(a) where the value of the goods, in relation to which such contravention or attempted contravention or abetment of contravention has been made, exceeds ten lakh rupees, with imprisonment for a term which may extend to seven years and also with fine, and

(b) in any other case, with imprisonment for a term which may extend to three years and also with fine:"

shall be substituted.

Insertion of new sections 5A and 5B.

5. After section 5 of the principal Act, the following sections shall be inserted, namely:—

Penalty for contravention of order made by adjudicating authority and Appellate authority.

"5A. If any person fails to pay the penalty imposed by the adjudicating or the Appellate authority or fails to comply with any direction or order made, or deemed to have been made, under this Act, he shall, upon conviction by a court, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Correction of clerical or arithmetical mistakes.

5B. Clerical or arithmetical mistakes in any decision or order, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the authority by which the decision or order was made either on its own motion or on the application of the aggrieved person:

Provided that where any correction proposed to be made under this section will have the effect of prejudicially affecting any person, no such correction shall be made except after giving to that person a reasonable opportunity of making a representation in the matter and no such correction shall be made after the expiry of a period of two years from the date on which such decision or order was made.".

Insertion of new section 8.

6. After section 7 of the principal Act, the following section shall be inserted, namely:—

Power to make rules.

"8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the person by whom, and the manner in which, any document received from a place outside India shall be authenticated,

(*b*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making

any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Repeal and saving.

7. (1) The Imports and Exports (Control) Amendment Ordinance, 1975, is hereby repealed. 19 of 1975.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act, as if this Act had come into force on the 4th day of November, 1975.

## STATEMENT OF OBJECTS AND REASONS

The provisions of the Imports and Exports (Control) Act, 1947, and the Orders made thereunder were enforced either by the prosecution of the offender or by debarment of the offender from receiving import and export facilities for a specified period. Experience has shown that these steps did not have the desired effect in curbing the abuses of import and export facilities. Further, debarment of the offender from receiving further import facilities has its own repercussions on the industry as it affects the continuity of production and employment. There is also no guarantee that the sentences of imprisonment or fine imposed by the courts or the debarment of import and export facilities would mop up the ill-gotten gains accruing to the persons misusing the import and export facilities. With a view to removing these lacunae from the law, the President had promulgated the Imports and Exports (Control) Amendment Ordinance, 1975 to provide for the entry, inspection and search of premises in which imported goods or materials are suspected to have been kept or concealed and to seize them. Provisions for the confiscation of such goods and imposition of penalties have also been made in the Ordinance.

2. The Bill seeks to replace the said Ordinance.

D. P. CHATTOPADHYAYA.

NEW DELHI;
*The 27th December,* 1975.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill proposes to insert new sections 4B to 4M in the Imports and Exports (Control) Act, 1947, Sections 4B to 4D of the Act empower the Chief Controller to authorise any person, or any officer serving under him, to enter and inspect and search any premises in which imported goods or materials are suspected to have been kept or concealed and to seize such imported goods or articles. The officers so authorised have also been given power under the new section 4E to stop and seize conveyances which are used for the transportation of any imported goods or materials. New section 4K empowers certain officers to adjudge the confiscation or impose the penalty under the Act. The power to hear appeals against orders made under the Act has been given to certain officers under the new section 4M. The Bill, if enacted, would necessitate the appointment of officers and staff for carrying out the above functions. The estimated administrative recurring expenses for meeting the salaries and other expenses of the officers and staff is likely to be of the order of Rs. 3,90,000. A non-recurring expenditure of the order of Rs. 50,000 is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill proposes to insert a new section 8 in the Imports and Exports (Control) Act, 1947, which gives power to the Central Government to make rules for carrying out the provisions of the Act. The matters in respect of which rules may be made relate, *inter alia*, to specifying the person by whom and the manner in which any document received from a place outside India shall be authenticated.

2. The delegation of legislative power proposed to be conferred on the Central Government is of a normal character.

BILL NO. 6 OF 1976

*A Bill to provide for the extension of the Representation of the People Act, 1950 and the Representation of the People Act, 1951, to the State of Sikkim.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :—

Short title and commencement.

**1.** (*1*) This Act may be called the Election Laws (Extension to Sikkim) Act, 1976.

(*2*) It shall be deemed to have come into force on the 9th day of September, 1975.

Extension and amendment of election laws.

**2. (*1*) The Acts mentioned in the Schedule are hereby extended to, and shall be in force in, the State of Sikkim.**

**(*2*) With effect from the commencement of this Act, the Acts mentioned in the Schedule shall be amended as specified therein.**

(*3*) Any reference in the Acts mentioned in the Schedule to a law not in force, or to a functionary not in existence, in the State of Sikkim shall be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that State :

Provided that if any question arises as to who such corresponding functionary is, or if there is no such corresponding functionary, the Central Government shall decide as to who such functionary will be and the decision of the Central Government shall be final.

Repeal and saving.

9 of 1975.

**3.** (*1*) The Election Laws (Extension to Sikkim) Ordinance, 1975, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under or by virtue of the said Ordinance shall be deemed to have been done or taken under or by virtue of this Act.

## THE SCHEDULE

(*See* section 2)

### THE REPRESENTATION OF THE PEOPLE ACT, 1950

(43 OF 1950)

*Section 7A.*—After section 7, insert:—

Total number of seats in the Legislative Assembly of Sikkim and Assembly constituencies.

"7A. (*1*) Notwithstanding anything contained in section 7, in the Legislative Assembly of the State of Sikkim [deemed under the Constitution (Thirty-sixth Amendment) Act, 1975 to be the Legislative Assembly of that State duly constituted], the total number of seats to be filled by persons chosen by direct election from Assembly constituencies shall be 32.

(2) Every Assembly constituency referred to in sub-section (*1*) shall be a single-member constituency.

(*3*) In the Legislative Assembly so deemed to be duly constituted, the extent of each constituency and the reservation of seats shall be as provided for immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975.".

*Section 25A.*—In Part III, after section 25, insert:—

Conditions of registration as elector in Sangha constituency in Sikkim.

"25A. Notwithstanding anything contained in sections 15 and 19, for the Sangha constituency in the State of Sikkim, only the Sanghas belonging to monastries, recognised for the purpose of the elections held in Sikkim in April, 1974, for forming the Assembly for Sikkim, shall be entitled to be registered in the electoral roll, and the said electoral roll shall, subject to the provisions of sections 21 to 25, be prepared or revised in such manner as may be directed by the Election Commission, in consultation with the Government of Sikkim.".

*The First Schedule.*—In the First Schedule, under the heading "I. STATES", after serial number 15 and the entries relating thereto, insert:—

"15A. Sikkim .. .. .. 1 .. ..".

### THE REPRESENTATION OF THE PEOPLE ACT, 1951

(43 OF 1951)

*Section 4.*—In section 4, omit "and" at the end of clause (*cc*) and after that clause, insert:—

"(*ccc*) in the case of the seat allotted to the State of Sikkim, he is an elector for the Parliamentary constituency for Sikkim;".

*Section 5A.*—After section 5, insert:—

"5A. Notwithstanding anything contained in section 5, a person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under the Constitution) unless— Qualifications for membership of Legislative Assembly of Sikkim.

(*a*) in the case of a seat reserved for Sikkimese of Bhutia-Lepcha origin, he is a person either of Bhutia or Lepcha origin and is an elector for any Assembly constituency in the State other than the constituency reserved for the Sanghas;

(*b*) in the case of a seat reserved for Sikkimese of Nepali origin, he is a person of Nepali origin and is an elector for any Assembly constituency in the State;

(*c*) in the case of a seat reserved for Scheduled Castes, he is a member of any of the castes specified in the Representation of Sikkim Subjects Act, 1974 and is an elector for any Assembly constituency in the State; and

(*d*) in the case of a seat reserved for Sanghas, he is an elector of the Sangha constituency.".

*Section 12A.*—After section 12, insert:—

"12A. For the purpose of filling for the first time the seat allotted to the State of Sikkim by the Constitution (Thirty-sixth Amendment) Act, 1975 in the Council of States, the President shall, by a notification published in the Gazette of India, on such date as may be recommended by Election Commission, call upon the elected members of the Legislative Assembly of the State of Sikkim to elect a member in accordance with the provisions of this Act and of the rules and orders made thereunder and the election so held shall for all purposes and intent be deemed to have been held under section 12.". Notification for election to fill the seat allotted to the State of Sikkim in the Council of States.

*Section 14A.*—After section 14, insert:—

"14A. For the purpose of electing a representative of the State of Sikkim to the House of the People, specified in clause (*e*) of article 371F of the Constitution, the Election Commission shall call upon the members of the Legislative Assembly of the State of Sikkim to elect the representative in accordance with such of the provisions of this Act, and the rules and orders made thereunder, as are applicable to the election of the members of the Council of States.". Notification for electing the representative of the State of Sikkim to the existing House of the People.

*Section 33.*—In section 33, after sub-section (*1*), insert:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), for election to the Legislative Assembly of Sikkim (deemed to be the Legislative Assembly of that State duly constituted under

the Constitution), the nomination paper to be delivered to the returning officer shall be in such form and manner as may be prescribed:

Provided that the said nomination paper shall be subscribed by the candidate as assenting to the nomination, and—

(*a*) in the case of seat reserved for Sikkimese of Bhutia-Lepcha origin, also by at least twenty electors of the constituency as proposers and twenty electors of the constituency as seconders;

(b) in the case of a seat reserved for Sanghas, also by at least twenty electors of the constituency as proposers and at least twenty electors of the constituency as seconders;

(*c*) in the case of a seat reserved for Sikkimese of Nepali origin, by an elector of the constituency as proposer:

Provided further that no nomination paper shall be delivered to the returning officer on a day which is a public holiday.".

*Section 34.*—In section 34, in sub-section (*2*), for "under sub-section (*1*) of section 33", substitute "under sub-section (*1*) or, as the case may be, sub-section (*1A*) of section 33".

*Section 35.*—In section 35, for "under sub-section (*1*)", substitute "under sub-section (1) or, as the case may be, sub-section (1A)".

## STATEMENT OF OBJECTS AND REASONS

By the Constitution (Thirty-sixth Amendment) Act, 1975, which came into force on the 26th April, 1975, Sikkim has become a constituent unit of India as the 22nd State in the Indian Union. Section 3 of that Act inserted a new article 371F in the Constitution to provide *inter alia* that the sitting members of the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under the Constitution, that until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and that the representative of that State in the existing House of the People shall be elected by the members of the Legislative Assembly aforesaid. Section 4 of that Act amended the Fourth Schedule to the Constitution to allot one seat in the Council of States to that State.

2. With a view to giving effect to the provisions of the Constitution (Thirty-sixth Amendment) Act, 1975, it was decided, in consultation with the Election Commission, that the Representation of the People Act, 1950 and the Representation of the People Act, 1951 should be extended, with necessary modifications, to the State of Sikkim. As Parliament was not in session and as it was necessary to extend those Acts so that the representatives of the State of Sikkim in Parliament could be elected without delay, the President promulgated on September 9, 1975, the Election Laws (Extension to Sikkim) Ordinance, 1975. This Bill seeks to replace that Ordinance.

NEW DELHI; H. R. GOKHALE.

*The 12th December* 1975.

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## PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 7(13)/75-Leg. II, dated the 3rd January, 1976 from Shri H. R. Gokhale, Minister of Law, Justice and Company Affairs to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill to provide for the extension of the Representation of the People Act, 1950 and the Representation of the People Act, 1951, to the State of Sikkim, recommends under clause (3) of article 117 of the Constitution, the consideration of the Bill by Lok Sabha.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill extends the Representation of the People Acts, 1950 and 1951 to the State of Sikkim. The operation of these Acts in that State will involve expenditure on election staff employed in the Office of the Chief Electoral Officer and in the district election offices, storage and preservation of ballot-boxes and other election material, preparation and revision of electoral rolls and the conduct of elections. According to the Election Commission, the expenditure likely to be incurred is as under:—

*Recurring*

| | | |
|---|---|---|
| Accommodation for election office and store, payment of salary to election establishment, maintenance of vehicles and stationery and other items. | Rs. | 68,600 |
| Revision of electoral rolls, printing of electoral pads, TA/DA to enumerators, printing of electoral rolls, employment of temporary staff and contingency expenditure in connection with the preparation of electoral rolls in 1975. | Rs. | 1,25,000 |

*Non-recurring*

| | | |
|---|---|---|
| Purchase of staff car, office machines, furniture and other office equipment. | Rs. | 80,028 |

However, the actual expenditure will vary from year to year, depending on the conduct of General Elections and the number of bye-elections held in each year in that State. It is not possible to form an accurate estimate of the expenditure.

2. It may be mentioned that the expenditure incurred in any State on the preparation of the electoral rolls and the conduct of elections is borne initially by the State Government and the Central Government contributes 50 per cent. of the expenditure incurred by the State Government on the following items:—

(*i*) election staff employed in the Office of the Chief Electoral Officer and in the district election offices;

(*ii*) preparation and revision of electoral rolls;

(*iii*) storage and preservation of ballot-boxes and other election material; and

(*iv*) the conduct of elections to the House of the People and the State Legislative Assembly when they are held simultaneously, including the payment of allowances/honoraria to Government servants

and others placed on election duty. When the elections are not held simultaneously, the Central Government bears the entire expenditure incurred in respect of election to either House of Parliament and the State Government bears it in respect of elections to the State Legislature.

3. On the above basis, the expenditure to be borne by the Government of India would be 50 per cent. of the expenditure mentioned in para 1 above. Thus recurring expenditure of Rs. 96,800 and non-recurring expenditure of Rs. 40,014 will be involved from the Consolidated Fund of India.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill extends to the State of Sikkim the Representation of the People Act, 1950 and the Representation of the People Act, 1951 with certain modifications, as indicated in the Schedule. Under proposed sub-section (1A) of section 33 of the 1951 Act, the nomination paper to be delivered to the Returning Officer shall be in such form and manner as may be prescribed, that is, by rules made under the Act. The power to make rules relates to matters of detail. The delegation of power is, therefore, of a normal character.

BILL No. 8 OF 1976

*A Bill to provide for the levy and collection, by way of cess, a duty of excise on tobacco issued for the manufacture of beedi.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

**1.** (*1*) This Act may be called the Beedi Workers Welfare Cess Act, 1976.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Fund" means the Beedi Workers Welfare Fund formed under section 3 of the Beedi Workers Welfare Fund Act, 1976;

(*b*) "prescribed" means prescribed by rules made under this Act.

Levy and collection of cess on tobacco issued for manufacture of beedi.

**3. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected by way of cess for the purposes of the Beedi Workers Welfare Fund Act, 1976, on so much of the tobacco as is issued to any pesron from a warehouse for any purpose in connection with the manufacture of beedi, a duty of excise at such rate not exceeding one rupee per kilogram**

**on such tobacco as the Central Government may, from time to time, fix by notification in the Official Gazette.**

*Explanation.*—In this sub-section, "warehouse" means any place or premises appointed or licensed under rule 140 of the Central Excise Rules, 1944, made under the Central Excises and Salt Act, 1944. 1 of 1944.

(*2*) The duty of excise levied under sub-section (*1*) shall be in addition to any cess or duty leviable on tobacco under any other law for the time being in force.

**Crediting of proceeds of duty to the Consolidated Fund of India.**

**4.** The proceeds of the duty of excise levied under sub-section (*1*) of section 3 shall be credited to the Consolidated Fund of India.

Power to call for information.

**5.** The Central Government or any other authority specified by it in this behalf may require any person to furnish, for the purposes of this Act, such statistical and any other information as it may think fit.

**Protection of action taken in good faith.**

**6.** No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer or other employee of the Central Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

**Power to make rules.**

**7.** (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the assessment and collection of the duty of excise levied under section 3;

(*b*) the furnishing to the Central Government or any other authority specified by it in this behalf by any person of such statistical and any other information as may be required to be furnished under section 5;

(*c*) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Welfare measures to ameliorate the living conditions of the labour employed in the beedi establishments are not satisfactory. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, has a limited coverage in as much as it does prescribe some measures to improve the working conditions of the beedi and cigar workers in industrial premises only, such as cleanliness, ventilation, first aid, canteen, working hours, weekly holidays, etc. In so far as the field of labour welfare is concerned, the Act does not provide for medical, educational, recreational facilities, etc. Statutory welfare Funds exist for mica, coal, iron ore and limestone and dolomite mining industries, such Funds having been established under the Mica Mines Labour Welfare Fund Act, 1946, the Coal Mines Labour Welfare Fund Act, 1947, the Iron Ore Mines Labour Welfare Cess Act, 1961 and the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972, respectively. In order to provide welfare measures for the persons employed in the beedi establishments, it is proposed to establish a welfare fund. For this purpose it is proposed to levy, as a cess, a duty of excise on so much of the tobacco as is issued to any person from a warehouse for any purpose in connection with the manufacture of beedi. The rate of duty of excise will be at such rate not exceeding one rupee per kilogram of such tobacco as the Central Government may, from time to time, fix. The duty of excise to be levied shall be in addition to any cess or duty to be leviable on tobacco under any other law for the time being in force.

2. The Bill is mainly designed to achieve the above objectives.

NEW DELHI; K. V. RAGHUNATHA REDDY.

*The 15th December*, 1975.

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## PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. S/42011/1/174-M.III/M V., dated the 31st December, 1975 from Shri K. V. Raghunatha Reddy, Minister of Labour to the Secretary General, Lok Sabha.]

The President, having been informed of the subject matter of the above Bill for financing of activities to promote the welfare of persons employed in the Beedi Establishments, has recommended under articles 117(1), 117(3) and 274(1) of the Constitution, the introduction in and consideration by Lok Sabha of the said Bill.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the levy and collection of a Welfare Cess as a duty of excise at a rate not exceeding one rupee per kilogram of tobacco as is issued to any person from a warehouse for any purpose in connection with the manufacture of beedi. This is an enabling provision and it leaves the discretion to the Government to impose the duty at a rate it deems fit within that ceiling limit. The actual levy, for the present, is envisaged at 25 paise per kilogram on tobacco used in the manufacture of beedis. The total collection of cess is estimated to be of the order of Rs. 1.82 crores. The proceeds thus collected will be paid into the Consolidated Fund of India. There is no provision in the Bill which directly involves any expenditure from the Consolidated Fund of India. But under the Beedi Workers Welfare Fund Bill, 1976, an amount equivalent to the proceeds of the duty of excise (reduced by the cost of collection) together with any income from the investment of the said amount and any other monies received by the Central Government for the purpose shall, after due appropriation made by Parliament by law, be paid to the credit of a Fund called the Beedi Workers Welfare Fund. Thus the collection charges will be an indirect expenditure from the Consolidated Fund of India.

2. The cess on beedi tobacco will have to be collected from all over India. The duty of excise will be collected by the Central Excise Department and a collection charge of one per cent. will be paid to them. Taking the total collection of cess at Rs. 1.82 crores, the amount payable as collection charges will be about Rs. 1,82,000.

3. The Beedi Workers Welfare Fund Bill, 1976, provides for the constitution of Advisory Committees for the principal beedi producing States, the constitution of Central Advisory Committee to co-ordinate the work of the Advisory Committees and appointment of Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff for the purposes of the said Bill and this Bill. Allowances have to be paid to the members of the Advisory Committees and the Central Advisory Committee including co-opted members and special invitees and salaries and allowances have to be paid to the Welfare Commissioners, Welfare Administrators, Inspectors and other officers and staff. It is estimated that the aggregate of the allowance to be paid to the members of the Advisory Committees and Central Advisory Committee and the salaries and allowances to be paid to the Welfare Commissioners and other officers and staff will be of the order of Rs. 10.92 lakhs per annum, being six per cent. of the total anticipated cess, which has been estimated to be of the order of Rs. 1.82 crores.

4. The Bill does not involve any other expenditure, whether of a recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. The matters in respect of which such rules may be made are specified in that clause. They *inter alia* relate to the assessment and collection of the duty of excise on tobacco, the determination of the cost of collection of the duty of excise and the furnishing to the Central Government or any other authority specified by it in this behalf by any person of such statistical and any other information as may be required to be furnished. The matters with respect to which rules may be made are matters of procedure or detail.

2. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 9 OF 1976

*A Bill to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Beedi Workers Welfare Fund Act, 1976.

(*2*) It extends to the whole of India.

(*3*) It shall come into force in a State on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas in the State and for different provisions of this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Fund" means the Beedi Workers Welfare Fund formed under section 3;

(*b*) a person is said to be engaged in an establishment if he is engaged in that establishment, directly or through any agency, whether for wages or not, for doing any work, skilled, unskilled, manual or clerical and includes—

(*i*) any person who is given raw materials by an employer or a contractor for being made into beedi at home, and

(*ii*) any person not engaged by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor;

(c) "prescribed" means prescribed by rules made under this Act;

(d) words and expressions used but not defined in this Act and defined in the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, shall have the meanings respectively assigned to them in that Act in so far as they relate to a person engaged in beedi establishments.

32 of 1966.

Beedi Workers Welfare Fund.

3. There shall be formed a Fund to be called the Beedi Workers Welfare Fund and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Beedi Workers Welfare Cess Act, 1976, after deducting the cost of collection as determined by the Central Government under this Act;

(b) any income from investment of the amount credited under the Act referred to in clause (a) and any other moneys received by the Central Government for the purposes of this Act.

Application of Fund.

4. (1) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons engaged in beedi establishments; and in particular—

(a) to defray the cost of measures for the benefit of such persons directed towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities;

(ii) the provision and improvement of water supplies and facilities for washing;

(iii) the provision and improvement of educational facilities;

(iv) the provision and improvement of housing and recreational facilities including standards of living, nutrition and amelioration of social conditions;

(v) the provision and improvement of such other welfare measures and facilities as may be prescribed;

(b) to grant loan or subsidy to a State Government, a local authority or an employer in aid of any scheme approved by the Central Government for the purpose connected with the welfare of persons engaged in beedi establishments;

(c) to pay annually grants-in-aid to a State Government, or a local authority or to an employer who provides to the satisfaction of the Central Government welfare measures and facilities of the prescribed standard for the benefit of persons engaged in beedi establishments, so, however, that the amount payable as grants-in-aid to

any such State Government, local authority or employer shall not exceed—

(i) the amount spent in providing welfare measures and facilities as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively and the salaries and allowances, if any, of persons appointed under section 8;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(2) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

Advisory Committees.

5. (1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal beedi producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of every Advisory Committee.

Central Advisory Committee.

6. (1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 5 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the employers and persons engaged in beedi establishments and that at least one member of such Committee shall be a woman.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

Power to co-opt.

7. (1) An Advisory Committee or the Central Advisory Committee may, at any time and for such period as it thinks fit, co-opt any person or persons to the Advisory Committee.

(2) A person co-opted under sub-section (1) shall exercise all the powers and functions of a member under this Act but shall not be entitled to vote.

(3) The Advisory Committee or the Central Advisory Committee may, if it considers it necessary or expedient so to do, invite any person to attend its meeting and when such person attends any meeting, he shall not be entitled to vote thereat.

Appointment of Welfare Commissioners, etc., and their powers.

**8. (1) The Central Government may appoint as many Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff as it thinks necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976.**

**(2) The Central Government may, by general or special order, direct a Welfare Commissioner to appoint such staff as is considered necessary for the purposes of this Act and the Beedi Workers Welfare Cess Act, 1976.**

(3) Every person appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(4) Any Welfare Commissioner, Welfare Administrator or Inspector may,—

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

Power of Central Government to exempt.

9. Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons engaged in beedi establishments, it may, by notification in the Official Gazette, direct that all or any of the provisions

of this Act shall not apply or shall apply to such State or part thereof subject to such exemptions and modifications as may be specified in the notification.

Annual report of activities financed under the Act.

**10.** The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of its activities financed under this Act during the previous financial year together with a statement of accounts.

Power to call for information.

**11.** The Central Government may require a State Government or a local authority or an employer to furnish, for the purposes of this Act, such statistical and other information in such form and within such period as may be prescribed.

Power to make rules.

**12.** (*1*) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the manner in which the Fund may be applied for the measures and facilities specified in sub-section (*1*) of section 4;

(*b*) the conditions governing the grant of loan or subsidy under clause (*b*) of sub-section (*1*) of section 4;

(*c*) the conditions governing grant-in-aid under clause (*c*) of sub-section (*1*) of section 4;

(*d*) the standard of welfare measures and facilities to be provided under clause (*c*) of sub-section (*1*) of section 4;

(*e*) the determination of the amounts referred to in sub-clause (*ii*) of clause (*c*) of sub-section (*1*) of section 4 and the proviso to that clause;

(*f*) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 5 and 6 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;

(*g*) the recruitment, conditions of service and the duties of all persons appointed under section 8;

(*h*) the power that may be exercised by a Welfare Commissioner, a Welfare Administrator or an Inspector under section 8;

(*i*) the furnishing to the Central Government by a State Government or a local authority or an employer of such statistical and other information as may be required to be furnished under section 11;

(*j*) the forms in which and the period within which statistical and other information are to be furnished under clause (*i*);

(*k*) any other matter which has to be or may be prescribed, or provided for, by rules under this Act.

(3) In making any rule under clause (*i*) or clause (*j*) of sub-section (*2*), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Welfare measures to improve the living conditions of labour engaged in the beedi establishments are not satisfactory. Statutory welfare funds have already been set up for mica, coal, iron ore and limestone and dolomite mining industries under the Mica Mines Labour Welfare Fund Act, 1946, the Coal Mines Labour Welfare Fund Act, 1947, the Iron Ore Mines Labour Welfare Cess Act, 1961 and the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972, respectively. In order to provide welfare measures for the labour employed also in the beedi establishments, it is proposed to establish a Beedi Workers Welfare Fund. The duty of excise levied on the tobacco under the provisions of the Beedi Workers Welfare Cess Bill, 1976 after deducting the cost of collection, would be credited to the proposed Fund.

2. The Fund is intended to supplement, and not to supplant, the efforts of the employers or the State Governments to ameliorate the living conditions of the labour engaged in the beedi establishments. The purposes for which money from the Fund can be spent have been mentioned in clause 4 of the Bill.

3. It is proposed to administer the Fund in consultation with an Advisory Committee, which, to begin with, will be set up in each of the principal beedi producing States. Power is being taken by the Central Government to set up a Central Advisory Committee to co-ordinate the activities of the State Advisory Committees and to ensure their effective functioning.

4. The Bill is mainly designed to achieve the above objectives.

NEW DELHI; K. V. RAGHUNATHA REDDY.

*The 15th December*, 1975.

## PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[*Copy of letter No. S/42011/1/74-M.III/M.V., dated the 31st December*, 1975 from Shri K. V. Raghunatha Reddy, Minister of Labour to the Secretary-General Lok Sabha.]

The President, having been informed of the subject matter of the above Bill for financing of activities to promote the welfare of persons employed in the Beedi Establishments, has recommended under articles 117(1), 117(3) and 274(1) of the Constitution, the introduction in and consideration by Lok Sabha of the said Bill.

## FINANCIAL MEMORANDUM

Under clause 3 of the Bill, an amount equivalent to the proceeds of the duty of excise collected under the Beedi Workers Welfare Cess Bill, 1976 (reduced by the cost of collection) together with any income from the investment of the said amount and any other monies received by the Central Government for the purposes of this Bill, shall, after due appropriation made by Parliament by law, be credited to a Fund to be called the Beedi Workers Welfare Fund.

2. Clause 4 of the Bill specifies the purposes for which the money from the Beedi Workers Welfare Fund can be spent. Clause 5 provides for the constitution of Advisory Committees for the principal beedi producing States, clause 6 provides for the constitution of a Central Advisory Committee to co-ordinate the work of the Advisory Committees, and clause 8 provides for the appointment of Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff for the purposes of this Bill and the Beedi Workers Welfare Cess Bill, 1976. Allowances have to be paid to the members of the Advisory Committees and the Central Advisory Committee, including co-opted members and special invitees and salaries and allowances have to be paid to the Welfare Commissioners, Welfare Administrators, Inspectors and other officers and staff appointed under clause 8. It is estimated that the aggregate of the allowances to be paid to the members of the Advisory Committees and the Central Advisory Committee, and the salaries and allowances to be paid to the Welfare Commissioners and other officers and staff, will be of the order of Rs. 10.92 lakhs per annum, being 6 per cent. of the total anticipated cess, which has been estimated to be of the order of Rs. 1.82 crores.

3. It will be seen from the foregoing that there will be no net out-go from the Consolidated Fund of India.

4. The Bill does not involve any other expenditure, whether of a recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government, by notification in the Official Gazette, to direct that all or any of the provisions of the legislation shall not apply or shall apply to any State or part thereof, subject to such exemptions and modifications as may be specified in the notification, if that Government is satisfied that there is in force in such State or part thereof a law making adequate provision for the financing of activities to promote welfare of the persons engaged in beedi establishments. As the clause specifies clear guidelines for issuing a notification, the delegation of legislative power is of a normal character.

Clause 12 of the Bill empowers the Central Government to make rules for the following matters:—

(a) the manner in which the Beedi Workers Welfare Fund may be applied

(b) the conditions governing the grant of loan or subsidy;

(c) the conditions governing grant-in-aid;

(d) the standard of welfare measures and facilities to be provided;

(e) the composition of the Advisory Committees and the Central Advisory Committee, the manner in which the members thereof shall be chosen, the term of office of such members, the manner in which the Advisory Committees and the Central Advisory Committee shall conduct their business;

(f) the recruitment, conditions of service and duties of Welfare Commissioners, Welfare Administrators, Inspectors and such other officers and staff;

(g) the furnishing of statistical and other information;

(h) the forms in which and the period within which such statistical and other information are to be furnished.

The above matters with respect to which rules may be made are matters of procedure or detail. The delegation of legislative power is, therefore, of a normal character.

S. L. SHAKDHER,
*Secretary-General.*

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